

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

In the Matter of:	)	
	)	
Yvonne Rapier,	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. 15-0011
	)	
Peoples Gas Light and Coke Company,	)	
	)	
Respondent.	)	
	)	
A complaint as to billing/charges	)	
in Chicago, Illinois.	)	

**RESPONDENT’S CLOSING BRIEF**

Pursuant to the schedule set by the Administrative Law Judge on May 14, 2015, Respondent Peoples Gas Light and Coke Company (“Peoples Gas”), by and through its attorneys, Chico & Nunes, P.C., files its Closing Brief and in support thereof states as follows:

**I. SUMMARY AND BACKGROUND**

Complainant Yvonne Rapier (“Ms. Rapier”) filed a formal Complaint with the Illinois Commerce Commission (the “Commission”) on January 2, 2015, disputing gas bills for service provided to a residence located at 9416 S. Winchester Avenue, Chicago, Illinois.<sup>1</sup> Peoples Gas billed Ms. Rapier a total of \$3,853.87 for her actual gas usage between November 2013 and June 2014, of which \$2,803.31 remains due and owing. These bills were based on actual electronic reading technology (“ERT”) readings from Ms. Rapier’s meter. Ms. Rapier alleges that she is not responsible for these charges and that her account should be credited because the physical dials connected to her gas meter were stuck on 8922. On May 14, 2015, an evidentiary hearing was

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<sup>1</sup> Ms. Rapier has not identified the section of the Public Utilities Act or Administrative Code pursuant to which she brings her complaint.

conducted in this matter.

## **II. LEGAL STANDARD**

Under the Illinois Public Utilities Act, Ms. Rapier bears the burden of proving the allegations in her formal complaint. *PlastoFilm Indus., Inc. v. Commonwealth Edison Co.*, Docket No. 94-0119, 1999 WL 33915076 (Ill. Commerce Comm’n July 8, 1999) (“Complainant bears the burden of proof in a complaint case, and in substantiating its allegations the complainant must prove its case by a preponderance of the evidence.”). If a complainant fails to meet this burden, the Commission should enter judgment in the respondent’s favor. *Id.*

## **III. ARGUMENT**

At the evidentiary hearing on May 14, 2015, Ms. Rapier presented herself and her friend, Sharon Robertson-Reynolds, as witnesses. Peoples Gas presented senior account representative Bill Hendrixson and meter maintenance supervisor Donald Taylor as witnesses.

Ms. Rapier’s complaint is apparently based on her dual assumptions that if the physical index is jammed that the meter is not accurately recording her actual usage; and that she need not pay for gas she actually used while the physical index was inoperative. However, as Peoples Gas’s witnesses explained, Ms. Rapier was billed based on monthly electronic reading technology (“ERT”) readings, which accurately recorded her monthly usage. Indeed, Peoples Gas’s witness testified that her meter was tested after it was removed from her home and it was found to be accurately measuring her usage. Ms. Rapier did not offer any evidence that her bills were based on inaccurate readings and conceded that she had no idea how the billing worked. Evidentiary Hearing Transcript, Rapier Testimony (“Rapier”), 61:2-5. Ms. Rapier failed to meet her burden of proof that she was improperly billed and her complaint should be denied.

**A. Ms. Rapier's Account at 9416 S. Winchester Ave.**

Ms. Rapier owns a two story, two unit building located at 9416 S. Winchester in Chicago, Illinois. Rapier, 45:15-21. Ms. Rapier lives on the second floor and her daughter lives on the first floor. Rapier, 45:22-46:14. Ms. Rapier has one gas meter for the entire building. Rapier, 45:15-46:1; 62:10-16. Peoples Gas began providing Ms. Rapier with gas service at that address on November 22, 2013. Bill Hendrixson Testimony ("Hendrixson") 81:5-7; Respondent's Ex. A.

Ms. Rapier testified that between November 2013 and May 2014, she used several gas appliances, including a clothes dryer, stove, water heater, and gas furnace. Rapier, 46:18-49:15. She testified that the windows need to be replaced. Rapier, 46:5-12. In addition, in January 2014, a Peoples Gas technician noted that the windows were "very old" and that "some storm windows [are] open (2) [and] need to be closed properly." Complainant Group Ex. 1 at p. 3.

**B. The Peoples Gas Meter Installed at 9416 S. Winchester.**

The meters used by Peoples Gas customers record gas usage and then electronically transmit an actual reading (an "ERT reading") to a mobile unit on a monthly basis. Donald Taylor Testimony ("Taylor"), 139:17-140:4. Each month, Peoples Gas bills its customers based on ERT readings. *Id.* The meters also have a physical index or display that is initially calibrated to the same number as the ERT reading. Taylor, 136:17-137:6, 138:11-12. When a technician reads a meter in person, the technician typically takes down the physical index reading, not the ERT reading. Taylor, 139:2-6.

The ERT and the physical display should show the same reading when working as intended, but the ERT and the display actually operate independently. Taylor, 138:2-4. Therefore, even if the display is not working (for example, if it is jammed in one position), the ERT will still accurately record usage and transmit the correct reading to the mobile unit so that the customer

receives an accurate bill. Taylor, 138:7-9 and 148:8-17. As required by the ICC, Peoples Gas performs accuracy tests on all meters that are removed from service. Taylor, 140:5-9.

On May 21, 2014, pursuant to Ms. Rapier's request, Peoples Gas removed Ms. Rapier's meter from service. Rapier, 41:21-22; Hendrixson, 117:10-13, referring to Respondent's Ex. I. Shortly thereafter, Peoples Gas tested the meter for accuracy and determined that the meter was reading only .45% fast.<sup>2</sup> Taylor, 144:16-145:9. In addition, the ERT was properly transmitting the meter readings. Hendrixson, 96:14-21, 101:5-8, 108:8-11, 111:19-22, 114:11-14, 118:4-7, 119:2-6; Taylor, 146:13-147:7, referring to Respondent's Ex. M.

The testing also established that the physical index was stuck on 8922 and was no longer synchronized with the meter and ERT. Taylor, 146:13-147:7, referring to Respondent's Ex. M; Hendrixson, 160:15-22. The inoperative physical index did not affect Ms. Rapier's bills because Peoples Gas billed Ms. Rapier based on accurate actual ERT readings, not the inoperative physical display. Rapier, 61:6-62:19; Hendrixson, 92:19-93:5, 101:5-19, 103:18-104:1, 107:5-6; 110:10-12, 113:11-18, 131:8-10; Taylor, 137:10-22, 139:17-140:1, 152:19-153:8.

### **C. Billing at 9416 S. Winchester.**

On December 9, 2013, Peoples Gas generated Ms. Rapier's first bill at 9416 S. Winchester for the 17-day period from November 22, 2013 to December 9, 2013 in the amount of \$2,539.40, which included \$2,519.92 in current usage charges and \$19.48 for service activation. Hendrixson, 88:15-90:1, Respondent's Ex. B. Peoples Gas never sent this bill to Ms. Rapier, and Ms. Rapier was never responsible for this bill, because Peoples Gas's automated system rejected the bill as abnormally high. Hendrixson, 93:15-17; Respondent's Ex. A. This high bill was based on a

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<sup>2</sup> Pursuant to ICC regulations, meters are not deemed inaccurate unless the average error exceeds four percent (4%), almost ten times the error rate of Ms. Rapier's meter. 83 Ill. Admin. Code 500.240(a). Ms. Rapier's meter was therefore well within the ICC's approved accuracy range.

starting meter reading of 8922 (based on an in-person reading of the jammed physical index, which was inaccurate) and an ending reading for the billing period of 1885 (based on the ERT reading received by the mobile unit, which was accurate). Hendrixson, 89:3-12, 93:3-5.

On December 10, 2013, Peoples Gas cancelled the abnormally high usage charges reflected on the December 9, 2013 bill and assessed corrected usage charges of \$448.22 for that billing period. Respondent's Ex. A. The \$448.22 in usage charges were based on a starting reading calculated from the final ERT reading of the previous customer at 9416 S. Winchester. Hendrixson 88:15-90:1, 90:9-92:18, 93:6-14.<sup>3</sup> Ms. Rapier's first bill from Peoples Gas for usage at 9416 S. Winchester was \$467.70, the total of \$448.22 in usage charges and \$19.48 for service activation. Respondent's Ex. A.

Ms. Rapier did not make a payment on the December 10, 2013 bill and, over the next several months, accrued a significant outstanding balance. Respondent's Ex. D-I. Peoples Gas calculated Ms. Rapier's total balance by carrying forward the unpaid total balance from the previous month and adding the usage from the current billing period. Hendrixson, 99:15-19, 104:5-12, 107:10-19, 110:19-111:6, 114:5-10, 118:16-119:1. As set forth in the following chart, Ms. Rapier accrued a balance of \$2,803.31:

Bill Date	Total Current Charges	Payments	Total Balance
Dec. 10, 2013	\$467.70	First Bill	\$467.70
Jan. 9, 2014	\$767.45	(\$0.00)	\$1,235.15
Feb. 11, 2014	\$675.68	(\$250.00)	\$1,660.83
Mar. 10, 2014	\$775.62	(\$300.00)	\$2,135.89
April 8, 2014	\$687.28	(\$300.00)	\$2,523.17
May 8, 2014	\$380.84	(\$0.00)	\$2,904.01
June 9, 2014	\$99.30	(\$200.00)	\$2,803.31

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<sup>3</sup> As a result of this cancelled bill, a customer service representative looking back on the history of the account would see a substantial credit to Ms. Rapier's account in the amount of \$2,519.92. This may explain the confusion when Ms. Rapier called Peoples Gas to inquire about her bills.

*See* Respondent's Exs. A, D-I.

Ms. Rapier disputes the \$2,803.31 balance and claims that she is entitled to a credit of the entire balance due for this time period. Rapier, 42:5-43:16; Hendrixson, 118:8-15. She does not explain why she should not be responsible for her actual usage and has not met her burden of proof with respect to her formal complaint.

To the contrary, the undisputed evidence shows that Ms. Rapier's meter was properly recording her actual usage and that she was billed appropriately for that usage. Ms. Rapier's total balance was a result of unpaid balances compounding, as shown above, and her high usage. Hendrixson, 118:16-119:1. Ms. Rapier admitted that the winter of 2013-2014 was colder than usual. Rapier, 49:15-22. Indeed, each of Ms. Rapier's bills showed the year to year difference in the average daily temperature. *See* Respondent's Exs. A, D-I. December 2013 was on average 12 degrees colder each day than December 2012. Hendrixson, 96:2-13, referring to Respondent's Ex. A. Each day of January 2014 was 14 degrees colder than in January 2013. Hendrixson, 100:15-101:4, referring to Respondent's Ex. D. February 2014 was 8 degrees colder than in February 2013. Hendrixson, 104:13-19, referring to Respondent's Ex. E. March 2014 was 9 degrees colder than in March 2013. Hendrixson, 108:1-7, referring to Respondent's Ex. F.

During the entire relevant period, Ms. Rapier's gas furnace supplied heat to both units, and her gas water heater supplied heated water to both units. Rapier, 48:12-49:14. Moreover, Ms. Rapier's windows are old and "not in the best shape." Rapier, 46:5-12; Complainant Group Ex. 1 at p. 3. She also admitted that one of her storm windows was open when a Peoples Gas technician came to her home on January 17, 2014 (though the technician noted that two storm windows were open). Rapier, 50:1-11; Complainant Group Ex. 1 at p. 3. All of this contributed to Ms. Rapier's high usage from November 2013 to June 2014.

#### **IV. CONCLUSION**

Ms. Rapier did not meet her burden of proof on her complaint because she presented no evidence that Peoples Gas improperly billed her between November 2013 and June 2014. Her speculation that the jammed physical display resulted in Peoples Gas incorrectly billing her was refuted by Peoples Gas's evidence. Peoples Gas never billed Ms. Rapier based on the jammed display, it only billed her based on the ERT readings. The ERT operates independently of the display and is driven by the meter. Both the ERT and the meter worked properly and accurately. Ms. Rapier's gas bills were high because her usage was high. Peoples Gas correctly billed Ms. Rapier for her usage, for which she owes Peoples Gas a balance of \$2,803.31. Therefore, Peoples Gas respectfully requests that this Court deny Complaint No. 15-0011.

DATED at Chicago, Illinois on this 19th day of June, 2015.

Respectfully Submitted,

**PEOPLES GAS LIGHT AND COKE  
COMPANY**

By: /s/ MARK W. WALLIN

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served **RESPONDENT PEOPLES GAS LIGHT AND COKE COMPANY'S CLOSING BRIEF** by placing a copy thereof in the United States mail with first class postage affixed or electronic mail addressed to each of the parties of record in Ill. C. C. Docket No. 15-0011.

Dated at Chicago, Illinois on this 19th day of June, 2015

By: /s/ MARK W. WALLIN

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